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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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09/665,231 09/18/00 WOOLFORD

M 3616.20USC5

023552

PM82/0315

MERCHANT & GOULD

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MINNEAPOLIS MN 55402-0903

EXAMINER

LAGMAN, F

ART UNIT

PAPER NUMBER

3673

DATE MAILED: 03/15/01

**Please find below and/or attached an Office communication concerning this application or proceeding.**

**Commissioner of Patents and Trademarks**

**Office Action Summary**Application No.  
**09/665,231**

Applicant(s)

**Woolford et al**Examiner  
**Frederick L. Lagman**Group Art Unit  
**3673**☐ Responsive to communication(s) filed on \_\_\_\_\_☐ This action is **FINAL**.☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire 3 month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

**Disposition of Claims**☒ Claim(s) 30-36 is/are pending in the application.

Of the above, claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

☐ Claim(s) \_\_\_\_\_ is/are allowed.☒ Claim(s) 30-36 is/are rejected.☐ Claim(s) \_\_\_\_\_ is/are objected to.☐ Claims \_\_\_\_\_ are subject to restriction or election requirement.**Application Papers**☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.☐ The drawing(s) filed on \_\_\_\_\_ is/are objected to by the Examiner.☐ The proposed drawing correction, filed on \_\_\_\_\_ is ☐ approved ☐ disapproved.☐ The specification is objected to by the Examiner.☐ The oath or declaration is objected to by the Examiner.**Priority under 35 U.S.C. § 119**☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).☐ All ☐ Some\* ☐ None of the CERTIFIED copies of the priority documents have been  
☐ received.☐ received in Application No. (Series Code/Serial Number) \_\_\_\_\_☐ received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\*Certified copies not received: \_\_\_\_\_

☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).**Attachment(s)**☒ Notice of References Cited, PTO-892☒ Information Disclosure Statement(s), PTO-1449, Paper No(s). 4☐ Interview Summary, PTO-413☐ Notice of Draftsperson's Patent Drawing Review, PTO-948☐ Notice of Informal Patent Application, PTO-152

--- SEE OFFICE ACTION ON THE FOLLOWING PAGES ---

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## DETAILED ACTION

### *Specification*

1. The disclosure is objected to because of the following informalities: page 1, lines 1-2, the status of U.S. Serial Nos. 09/497,250 and 09/160,916 should be updated.

Appropriate correction is required.

### *Double Patenting*

2. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321© may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

3. Claims 30-36 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1, 8, 30, 36, 40, 47, 57, and 70 of U.S. Patent No. 6,142,713. Although the conflicting claims are not identical, they are not patentably distinct from each other because the blocks broadly include upper/top and lower/bottom faces; front face; a rear face; a pair of side faces with rearwardly converging portions; a flange ie. lower rear locator

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lip; and wherein the upper face is substantially solid and continuous throughout its extent. It would have been inherent and obvious that a line drawn on the upper face through the point where the rearwardly converging portions begin is substantially parallel to a line drawn through the points where the side faces join the rear face, since doing so would be inherent for a block having the this trapezoidal shape.

4. Claims 30-36 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1, 2, 38, 41, and 50 of U.S. Patent No. 5,827,015.

Although the conflicting claims are not identical, they are not patentably distinct from each other because the blocks broadly include upper/top and lower/bottom faces; front face; a rear face; a pair of side faces with rearwardly converging portions; a flange ie. lower rear locator lip. It would have been inherent and obvious that a line drawn on the upper face through the point where the rearwardly converging portions begin is substantially parallel to a line drawn through the points where the side faces join the rear face, since doing so would be inherent for a block having the this trapezoidal shape.

5. Claims 33-35 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1 and 13 of U.S. Patent No. 5,294,216. Although the conflicting claims are not identical, they are not patentably distinct from each other because the blocks broadly include a block body comprising upper/top and lower/bottom faces; front face; a rear face; a pair of side faces with rearwardly converging portions; a flange ie. lower rear locator lip. It would have been inherent and obvious that the block body be free of cores and configure

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the faces so as to facilitate substantially parallel alignment, since doing so would provide a block that would be easily stacked.

***Conclusion***

6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.
7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Frederick L. Lagman whose telephone number is (703) 305-7456.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mr. David Bagnell, can be reached at (703) 308-2151. The fax phone number for this Group is (703) 305-7687.

FLL

March 12, 2001

  
DAVID BAGNELL  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 3600